
HOUSE BILL No. 1200

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30; IC 35-46-6-2.

Synopsis: Regulation of inhalants. Adds new substances to the list of prohibited inhalants. Criminalizes operation of a motor vehicle when a person is under the influence of model glue, nitrous oxide, or a prohibited inhalant.

Effective: July 1, 2001.

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January 9, 2001, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1200

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-30-5-2.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]: **Sec. 2.1. A person who operates a vehicle while under the**
4 **influence of:**

5 (1) **model glue (as defined in 35-46-6-1);**

6 (2) **nitrous oxide; or**

7 (3) **any product, aerosol, solvent, or agent that contains a**
8 **substance listed in IC 35-46-6-2(2);**

9 **commits a Class A misdemeanor.**

10 SECTION 2. IC 9-30-5-3 IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2001]: Sec. 3. A person who violates section 1,
12 **or 2, or 2.1** of this chapter commits a Class D felony if:

13 (1) the person has a previous conviction of operating while
14 intoxicated; and

15 (2) the previous conviction of operating while intoxicated
16 occurred within the five (5) years immediately preceding the
17 occurrence of the violation of section 1 or 2 of this chapter.



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SECTION 3. IC 9-30-5-4, AS AMENDED BY P.L.1-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) A person who causes serious bodily injury to another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; ~~or~~

(3) while intoxicated; **or**

(4) while under the influence of:

(A) model glue (as defined in IC 35-46-6-1);

(B) nitrous oxide; or

(C) any product, aerosol, solvent, or agent that contains a substance listed in IC 35-46-6-2(2);

commits a Class D felony. However, the offense is a Class C felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this chapter.

(b) A person who violates subsection (a) commits a separate offense for each person whose serious bodily injury is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 4. IC 9-30-5-5, AS AMENDED BY P.L.120-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; ~~or~~

(3) while intoxicated; **or**

(4) under the influence of:

(A) model glue (as defined in IC 35-46-6-1);

(B) nitrous oxide; or

(C) any product, aerosol, solvent, or agent that contains a substance listed in IC 35-46-6-2(2);

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commits a Class C felony. However, the offense is a Class B felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this chapter.

(b) A person who violates subsection (a) commits a separate offense for each person whose death is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 5. IC 9-30-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section.

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or

(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court may order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under

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consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court may order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(e) If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

(g) If the conviction under consideration by the court is for an offense involving the use of model glue (as defined in IC 35-46-6-1), nitrous oxide, or a product, an aerosol, a solvent, or an agent that contains a substance listed in IC 35-46-6-2(2), the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 6. IC 9-30-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) If:

- (1) a court recommends suspension of a person's driving privileges under section 10(b) of this chapter for an offense committed under this chapter; and
- (2) the person did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the offense;

the court may stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges for one hundred eighty (180) days.

(b) An order for probationary privileges must be issued in accordance with sections 11 and 13 of this chapter.

(c) If:

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(1) a court recommends suspension of a person's driving privileges under section 10(c), 10(d), or 10(e) of this chapter for an offense committed under this chapter; and

(2) the period of suspension recommended by the court exceeds the minimum permissible fixed period of suspension specified under section 10 of this chapter;

the court may stay the execution of that part of the suspension that exceeds the minimum fixed period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) In addition to the other requirements of this section, if a person's driving privileges are suspended or revoked under section 10(f) of this chapter, a court must find that compelling circumstances warrant the issuance of probationary driving privileges.

(e) In addition to the other requirements of this section, if a person's driving privileges are suspended or revoked under section 10(g) of this chapter, a court must find that compelling circumstances warrant the issuance of probationary driving privileges.

(f) Before a court may grant probationary driving privileges under this section, the person to whom the probationary driving privileges will be granted must meet the burden of proving eligibility to receive probationary driving privileges.

SECTION 7. IC 9-30-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this chapter, "covered offense" means the following:

(1) An offense:

(A) for which the offender's current driving license may be suspended under IC 9-30-13; and

(B) that involved the obstruction of traffic with or the operation of a motor vehicle with alcohol or a controlled substance listed in schedule I or II under IC 35-48-2 in the person's blood.

(2) An offense described under IC 9-30-5 that involved operation of a motor vehicle with alcohol or a controlled substance listed under schedule I or II under IC 35-48-2.

(3) An offense described under 9-30-5 that involved operation of a motor vehicle while under the influence of:

(A) model glue (as defined in IC 35-46-6-1);

(B) nitrous oxide; or

(C) any product, aerosol, solvent, or agent that contains a substance listed in IC 35-46-6-2(2).

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SECTION 8. IC 35-46-6-2 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. A person who, with
intent to cause a condition of intoxication, euphoria, excitement,
exhilaration, stupefaction, or dulling of the senses, ingests or inhales
the fumes of:

(1) model glue; or

(2) a substance that contains:

(A) toluene;

(B) acetone;

(C) benzene;

(D) N-butyl nitrite;

(E) any aliphatic nitrite, unless prescribed by a physician; ~~or~~

(F) butane;

(G) alcohols, including methyl, isopropyl, propyl, or butyl;

**(H) aliphatic acetates, including ethyl, methyl, propyl, or
methyl cellosolve acetate;**

(I) carbon tetrachloride;

(J) cyclohexane;

(K) freons;

(L) hexane;

(M) methyl ethyl ketone;

(N) methyl isobutyl ketone;

(O) naphtha;

(P) perchlorethylene;

(Q) trichloroethane; or

(R) xylene;

commits a Class B misdemeanor.

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